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SUBJECT: ELECTORAL COMMISSION POSTPONES GUBERNATORIAL VOTE
IN DRC'S KASAI PROVINCES

REF: KINSHASA 102

¶1. (SBU) Summary: The DRC's Independent Electoral Commission (CEI) January 26 postponed the scheduled January 27 election for governors and vice governors in the two Kasai provinces until February 10. The ruling followed challenges alleging two prominent candidates possessed dual nationality in violation of Congolese law. The case raises the delicate question of dual nationality and could potentially affect many of the DRC's newly-elected officials. End summary.

¶2. (SBU) Two members of President Kabila's Alliance for the Presidential Majority (AMP) have demanded the disqualification of the opposition Movement for the Liberation of Congo (MLC) gubernatorial candidates in Eastern and Western Kasai provinces for possessing dual nationality in violation of Congolese law. Tresor Kapuku, the AMP coalition candidate for governor of Western Kasai, introduced formal allegations against his MLC rival, Alex Kande, in a January 23 letter to the CEI provincial coordinator, charging that Kande is a Belgian citizen and therefore should not be allowed to run. Kapuku reportedly provided the CEI proof of Kande's Belgian citizenship obtained from the Belgian parliament's web site.

¶3. (U) On January 24, Lambert Mende, the national president of the AMP-affiliated CCU political party and "rapporteur" of the Transitional Senate, filed a similar complaint with Western Kasai CEI officials. Mende's letter made the same allegations against Kande and added similar charges against Dominique Kanku, the outgoing governor of Eastern Kasai who is running to retain the office.

¶4. (SBU) The national CEI responded to Kapuku's and Mende's allegations in a January 25 letter from its 3rd Vice President Crispin Kakonde, who is the delegate representing the pro-Kabila PPRD on the Commission. Kakonde wrote to the MLC and the national coordinator of Jean-Pierre Bemba's Union for the Nation (UfN) alliance asking them to withdraw Kande's and Kanku's names and replace them with different candidates. CEI President Apollinaire Malu Malu was out of the country when Kakonde wrote on behalf of the Commission.

¶5. (U) Kakonde's letter provoked a sharp response January 26 from the CEI's 1st Vice President Rose-Marie Mika, the MLC representative. Mika wrote that the CEI is "not competent" to address legal issues pertaining to candidacies and declared that Kakonde's request was annulled. She noted that Kakonde was unaware of information indicating Kande had relinquished his Belgian citizenship in 2004.

¶6. (U) MLC and UfN officials declined to remove their

candidates' names and filed a petition with the Court of Appeals in the Eastern Kasai capital of Mbuji-Mayi. The court immediately ruled January 26 that Kanku's name would be allowed to remain on the ballot and that the CEI decision to invalidate his candidacy was annulled. Faced with these responses, the CEI's executive board met late January 26 and decided to postpone the gubernatorial elections in both Kasai provinces until February 10 to allow further examination of the issues and court ruling.

¶ 7. (SBU) The DRC's electoral law prohibits anyone without Congolese nationality from running for office. The DRC's 2005 Constitution and 2004 Nationality Law both state that Congolese nationality is "exclusive" and cannot be held concurrently with another. Under Article 26 of the nationality law, any Congolese national who acquires a foreign nationality loses his or her Congolese nationality. The nationality law's implicit intention was to prohibit "Rwandans" from becoming Congolese citizens.

¶ 8. (SBU) Documents on the public website of "Le Moniteur Belge" show Kande was granted naturalization January 14, 2003, and Kanku on April 4, 2003. It is unknown whether either candidate renounced his Belgian citizenship after the DRC's nationality law passed in 2004. Both Kande and Kanku claim to have done so, but have not offered any evidence.

¶ 9. (SBU) The legal challenges themselves are not likely to succeed, if only for technical reasons. Both Kande and Kanku were elected July 30 as National Assembly deputies, and no challenge was previously brought to question their nationalities. Once elected, their mandates were validated by the Supreme Court and the Assembly itself, again without

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challenge. Finally, as MLC officials have pointed out, the deadline for challenging any gubernatorial candidacy has long passed.

¶ 10. (U) The attempted invalidation of Kande's and Kanku's candidacies has sparked a heated and acrimonious debate in Kinshasa. Many newspapers in the capital are seized with the topic, with some going so far as to name elected officials believed to hold dual nationalities. Other reports claimed as many as one-third of National Assembly deputies may have their seats revoked if their "true identities" are discovered. Jose Makila, an MLC deputy recently elected governor of Equateur province, told reporters January 31 he supported the creation of a commission of inquiry to investigate claims of Assembly members and other government officials having dual nationality. The Assembly's leadership has not commented publicly on the proposal.

¶ 11. (SBU) Comment: It has been an open secret for years that many senior government officials from all parties possess dual citizenship. No party has previously tried to disqualify candidates from other parties, knowing full well that the issue would boomerang on them. Mende and Kapuku have opened a Pandora's Box that cannot be easily shut. It is not clear if either was working independently or with the authorization of the AMP leadership. In any case, all of the major parties stand to lose if this issue moves to its logical conclusion.
End comment.

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